

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**SCOTT PISTONE,**

**Plaintiff,**

**v.**

**No. 13-cv-0920 MV/SMV**

**STATE OF NEW MEXICO  
PUBLIC DEFENDER DEPARTMENT and  
T. DAVID EISENBERG,**

**Defendants.**

**ORDER GRANTING DEFENDANTS' FIRST MOTION TO COMPEL  
PLAINTIFF'S INITIAL DISCLOSURES AND DISCOVERY RESPONSES**

THIS MATTER is before the Court on Defendants' First Motion to Compel Plaintiff's Initial Disclosures and Discovery Responses ("Motion") [Doc. 35], filed November 21, 2014. Plaintiff Pistone has not responded, and the time for doing so has passed. The Court, being fully advised in the premises, finds that the Motion is well-taken and should be GRANTED.

Defendants filed their Motion on November 21, 2014, requesting an order: (i) compelling Plaintiff to produce his Initial Disclosures immediately; (ii) compelling Plaintiff to respond to Defendants' First Sets of Interrogatories and Requests for Production—in full and without objection—immediately; (iii) compelling Plaintiff to respond to Defendant Eisenberg's Requests for Admission Nos. 6 and 7 in full and without objection; and (iv) awarding reasonable attorney's fees associated with bringing the Motion. [Doc. 35] at 8. Defendant filed nothing in response to the Motion.

"The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion." D.N.M.LR-Civ. 7.1(b).


“A response must be served and filed within fourteen (14) calendar days after service of the motion.” D.N.M.LR-Civ. 7.4(a). Plaintiff failed to timely respond to the Motion, and his failure constitutes consent to the grant the Motion. Accordingly,

**IT IS ORDERED, ADJUDGED, AND DECREED** that Defendants’ First Motion to Compel Plaintiff’s Initial Disclosures and Discovery Responses [Doc. 35] is **GRANTED**.

**IT IS FURTHER ORDERED** that:

1. Plaintiff shall serve his Initial Disclosures in compliance with Fed. R. Civ. P. 26(a)(1)(A) no later than **January 30, 2015**.
2. Plaintiff shall respond to Defendants’ First Sets of Interrogatories and Requests for Production—in full and without objection—no later than **January 30, 2015**.
3. Plaintiff shall respond to Defendant Eisenberg’s Requests for Admission Nos. 6 and 7—in full and without objection—no later than **January 30, 2015**.
4. Defendants shall be awarded reasonable expenses, including attorney’s fees, incurred in connection with the preparation of the Motion. Defendants’ counsel shall file an affidavit of expenses and attorney’s fees no later than **January 30, 2015**.

**IT IS SO ORDERED.**

  
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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**